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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/965,367	11/06/1997	GREGORY J. SPEICHER	935003	3846

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EXAMINER
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CARLSON, JEFFREY D

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

08/965,367

Applicant(s)

SPEICHER, GREGORY J.

Examiner

Jeffrey D. Carlson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 145-204 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 145-204 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

This action is responsive to the paper(s) filed 8/18/06.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 145-204 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US5794207).**

Walker et al ('207) teaches an interactive system for enabling communication exchange between an advertiser and respondent. Columns 11-23 disclose the most relevant subject matter, including an advertiser and respondent interfacing with the system via their respective Internet-connected PCs/terminals.

The preamble which states that the purpose of the system/method is to establish an acquaintance for the purpose of dating" does not limit the structure or method steps claimed in the body of the claim. Why you perform a step does not define the step. In fact, two users of Walker ('207) who engage in a communication exchange dialog using the system could establish an acquaintance that led to dating, although Walker ('207) need not specify such capability or desirability.

The system includes a buyer database and a seller database which store user data using buyer and seller IDs [col 13 lines 1-22, 36, 42]. Column 11 describes the

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network architecture including an buyer (advertiser) interface 400, seller (respondent) interface 300 and central controller 200 which are connected to the internet. Walker ('207) specifically teaches a world wide web interface which is taken to be a web site [8:59-60, 9:10-14]. The advertiser uses a web browser to access and interface with online forms which are filled out with the specifics of the ad, including various predefined categories. Walker ('207) does not limit the system or steps to any particular type of ad and it would have been obvious to one of ordinary skill at the time of the invention to have provided an ad for anything including an ad for a used good that specified the age of the good. Official Notice is taken that personal ads are well known and it would have been obvious to one of ordinary skill at the time of the invention to have posted an ad for yourself or your services which included your age for example. An ad (even if for a product) created by a user of this system is taken to broadly meet the language of a "personal advertisement" as the ad is from a person and it represents a personal advertisement of the creator. Further, the content placed in the ad is taken to represent non functional descriptive material. The method steps and system structure to enable ads to be placed are the same regardless of the type, content, and purpose for the ad. Any difference between the ad content of Walker ('207) and the instant invention are only found in the nonfunctional descriptive material and are not functionally involved in the method (or structurally programmed) steps recited. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of Patentability, see *In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it

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would have been obvious to one of ordinary skill at the time of the invention to have provided any type of ad content, including gender, age, marital status, etc. Such data content does not functionally relate to the steps and the subjective interpretation of the data content does not patentably distinguish the claimed invention.

The ad is transmitted to the central facility which stores it and publishes the ad on the Internet, making it available to multitudes of potential respondents. A respondent views subsets of all ads by using a web browser to view ads in specific categories or simply "active" ads [fig 9 and col 18+] or by search term. Responses to the ad may be submitted to the system and received by the advertiser. In fact, both parties may exchange a series of messages/content in order to learn more or to develop an agreement [col 22 lines 40+]. Walker et al ('207) also teaches that the interfaces to the system can enable voicemail audio data to be submitted to the system and stored for audio playback to system users [col 14 lines 60-65, col 17 lines 8-21]. Walker et al ('207) also describes the use of a software package that enables users to exchange messages with enclosures such as graphics, video and audio files as well as offering voice mail, web, email interfaces [col 14 lines 25-30]. Although not specifically stated by Walker et al ('207), it would have been obvious to one of ordinary skill at the time of the invention to have submitted these types of multimedia files (photos, audio, video) with the browser interface during the ad registration process so that the ad communication was more effective, enabling potential users to listen, view and watch features of the ad subject matter, increasing the attractiveness of the ad.

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Column 19 lines 13+ and figures 10 and 11 disclose responses by a respondent. The respondent "incorporates seller response 110 into the ad 100" [lines 40+]. This could be a symbol or indicia (graphic/photo) representative of the seller (respondent). Further responses submitted by the respondent are described in column 22 lines 39+, covering "counteroffers". In this instance, the ad proposal may not entirely to the respondents liking so the respondent submits information (responds) to the advertiser. It would have been obvious to one of ordinary skill at the time of the invention to have also responded to these types of ads with submittal of additional multimedia types as described (image, audio, video). In this manner, the respondent (seller) could send a photo, audio or movie of the goods, so as to more effectively communicate to the advertiser (buyer) the goods/services available. In this way, the advertiser (buyer) can be more confident in the makeup of the goods/services to be sold, eliminating errors, misunderstandings and potential deceit. It would have been obvious to one of ordinary skill at the time of the invention to have exchanged these types of multimedia files in the same manner as the original advertiser could. Column 22 lines 56-58 describe that "the seller follows the same process that the buyer uses to generate CPO 100 (ad)."

Regarding notification of a response, Walker ('207) teaches that users can exchange messages alternatively using email addresses; such emails are taken to represent notification for responses.

Regarding the publication of first and second portions of an ad, Walker ('207) teaches that a user can browse ads matching a particular category and would have been obvious to one of ordinary skill at the time of the invention to have displayed

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matching categorized ads via a search function. Official Notice is taken that it is well known to return summaries of search hits to a requesting user and to enable the user to select particular hits individually in order to inspect the full details of each hit. It would have been obvious to one of ordinary skill at the time of the invention to have indicated a subset list of search hits for ads of Walker ('207) and further to enable a user to review a selected ad's full details including associated multimedia so that the user can conveniently browse the search results.

**Claims 145-204 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Balabon (WO 9605564) in view of Gerace (US5848396).**

Balabon (WO 9605564) teaches a system and methods for enabling users to create electronic personal ads at remote terminals [5:16-25], the ads then are stored at a central host which is connected to the remote terminals by a communication network [5:25-30]. Other remotely located users may search for ads via a terminal by using particular search criteria which results in a displayed/published subset of ads which can be browsed to locate desirable ads in order to establish an acquaintance for the purpose of dating [9:5-12, 12:10-16]. A user interested in a particular ad can create a response to the ad which is communicated to the originating advertiser [6:4-8, 12:24-29]. Balabon (WO 9605564) states that the terminals and central host can periodically communicate in order to synchronize and distribute the latest data for the personal ad system [6:10-20]. Balabon (WO 9605564) further envisions that this data processing could also be done as online processing rather than as batch-mode processing [6:20-

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22], however Balabon (WO 9605564) suggests dedicated lines rather than the use of the Internet and a website as applicant claims. Gerace also teaches electronic personal ads which are created by remote users, stored by a central server, searched by other remote users to display/publish subsets of ads and further responded to by interested browsing users [22:54-23:7]. Gerace teaches that the network that communicates with the remote terminals can be the Internet and the central host provides an Internet website as an interface into the system [7:45-50, 9:40-51, 13:48-61]]. It would have been obvious to one of ordinary skill at the time of the invention to have used a website as an interface into the ad system of Balabon (WO 9605564) and enabled remote terminals to communicate in an online manner over the Internet to such a website host in order to eliminate costly dedicated data lines and to enable real-time online processing as is known with the Internet. This would provide a central host that stores the ad content and responses submitted by remote terminal users and enables searches, display/publication and playing/rendering of the stored content to remotely located terminal users.

Balabon (WO 9605564) teaches that a user desiring to create an ad can submit an ad as well as associated personal data (age, gender, religion, etc), a photo and a voice (audio) recording [5:19-24]. A respondent can respond with text, voice (audio), photo and recorded video [6:4-7]. It would have been obvious to one of ordinary skill at the time of the invention to have enabled users creating the ads to supply recorded video in association with their ad in a manner as taught for responses in order to more effectively communicate their personality.



Regarding notification of receipt of a response, Balabon (WO 9605564) teaches that the advertiser can retrieve messages if any via a telephone or a terminal. Merely enabling a user to check messages (if any) is taken to provide a mechanism which notifies the user that response(s) were received. Further, Gerace teaches that advertisers who have received responses are provided a notification message that "you have responses to your ad!" [23:2-5]. Balabon (WO 9605564) also teaches enabling external communication to the users via telephone. Gerace also teaches external communication to users via email. It would have been obvious to one of ordinary skill at the time of the invention to have notified recipients of responses via the user's external email in order to provide more timely notification, rather than waiting for the user to log back into the system to learn of any responses submitted.

Regarding the publication of first and second portions of an ad, both Balabon (WO 9605564) and Gerace teach search criteria that return a subset of ads. Official Notice is taken that it is well known to return summaries of search hits to a requesting user and to enable the user to select particular hits individually in order to inspect the full details of each hit. It would have been obvious to one of ordinary skill at the time of the invention to have indicated a subset list of search hits for ads of Balabon (WO 9605564) and further to enable a user to review a selected ad's full details including associated multimedia so that the user can conveniently browse the search results.

### ***Response to Arguments***

Applicant argues that Walker ('207) does not teach the proper context of online matchmaking. The preamble which states that the purpose of the system/method is to establish an acquaintance for the purpose of dating" does not limit the structure or method steps claimed in the body of the claim. Why you provide a system or why you perform a step doesn't limit the system or step. In fact, two users of Walker ('207) who engage in a communication exchange/dialog using the system could establish an acquaintance that led to dating, although Walker ('207) need not specify such capability or desirability. Further, personal ads are well known and it would have been obvious to one of ordinary skill at the time of the invention to have posted an ad advertising yourself in order to find companionship. Further, an ad created by a user of Walker ('207) is taken to broadly meet the language of a "personal advertisement" as the ad is from a person and it represents a personal advertisement of his. Further still, the particular content of the ad is taken to represent non functional descriptive material as detailed above. Further, numerous independent claim still do not specifically require the age of the individual posting the ad.

### ***Conclusion***

This is an RCE of applicant's earlier application. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first

action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

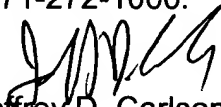
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Mon-Fri 8a-5:30p, (work from home on Thursdays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jeffrey D. Carlson  
Primary Examiner  
Art Unit 3622

jdc